

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE NATIONAL PRESCRIPTION
OPIATE LITIGATION

This document relates to:

Track Three Cases

MDL 2804

Case No. 17-md-2804

Hon. Dan Aaron Polster

**PLAINTIFFS' RESPONSE TO DEFENDANTS' OBJECTION TO SPECIAL MASTER
COHEN'S RULING THAT PLAINTIFFS NEED NOT ANSWER DEFENDANTS'
INTERROGATORY NO. 5**

Defendants' Interrogatory No. 5 seeks information that is irrelevant and evidences a misunderstanding of the Plaintiffs' abatement plan. In accordance with the Court's directive, Plaintiffs are seeking remedies for abatement of the opioid epidemic in their counties that is forward looking. Through this Interrogatory Defendants seek information from Plaintiffs about specific individuals who would seek treatment under the services provided in the plan. Consistent with the theories of the case, Plaintiffs have provided in Dr. Alexander's expert report (Appendix E, section 2B) and in Dr. Keyes' expert report (at P. 56) the estimated number of individuals with opioid use disorder in Lake and Trumbull County for the year 2021 – 5,668 and 7,221 respectively. Dr. Keyes' report describes at pages 53 through 57 how she arrived at these numbers. Dr. Alexander then estimates that for the first year, 40% of those people would be treated, based upon an initial year targeted population of 40% of those with an OUD diagnosis. He opines that after the initiation of other abatement remedies to drive OUD individuals to treatment within the counties, the percentages will increase annually.

To the extent that Defendants are seeking to have Plaintiffs comprehensively list, in deidentified form, the specific actual individuals who would be treated for OUD, Plaintiffs submit that they do not have access to that information. However, Plaintiffs' third-party vendors did produce opioid claims data in this litigation related to County employees, and their family members, of which a significant portion was already in the possession of CVS, Lake County's pharmacy benefit manager. Defendants previously admitted in CT1 that such data is a very small subset of information. ((See Defendants' March 21, 2019 Letter to Special Master Cohen at 1) ("Production of this additional data **is necessary because the claims data produced to date by plaintiffs represents less than 2% of opioid prescriptions** written in the Track 1 jurisdictions.") (*Id.*) (emphasis added). Defendants then proceeded to subpoena and compel information from other third-party carriers. (See Dkt. No. 1601 – Order Regarding United Healthcare Claims Data for CT1; Dkt. No. 1635 – Order Regarding OptumRx, Inc. Pharmacy Claims Data for CT1; Dkt. No. 1641 – Order Regarding Humana Health Pharmacy Claims Data for CT1.)

Similarly, here, during discovery Defendants subpoenaed third parties for such information because it was not in Plaintiffs' possession. To the extent Defendants obtained deidentified data from information responsive to subpoenas on third-parties, information regarding patients with OUD might be located within those files. Plaintiffs have no other information responsive to this interrogatory.

Plaintiffs therefore request that the court overrule the defendants' objections to Special Master Cohen's ruling with regard to interrogatory no. 5.

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CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2022, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. Copies will be served upon counsel of record by, and may be obtained through, the Court CM/ECF system.

/s/Peter H. Weinberger
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